

REMARKS

Status of the Claims

Pending Claims

Claims 1, 27, 33, 40, 45, 48, 57, 60, 98, 100, 106, 116, 126, 131, 141, 173-175, 180, 185, 190, 196, 198, 202, 204-206, 212-214 and 218-222.

Claims subject to restriction and/or election

Claims 1, 27, 33, 40, 45, 48, 57, 60, 98, 100, 106, 116, 126, 131, 141, 173-175, 180, 185, 190, 196, 198, 202, 204-206, 212-214 and 218-222.

Support of the Claim Amendments

The specification sets forth an extensive description of the invention in the amended claims. Accordingly, Applicants respectfully submit that no new matter is introduced by the instant amendment.

Group Restriction Requirement

The Office alleges that the pending claims of the application are directed to eleven (XI) separate or distinct inventions under 35 U.S.C. §121, as set forth in detail on pages 2 to 4 of the OA. The Office also requires Group elections for a specific biological sequence, as set forth in detail on page 3 of the OA.

The Elections – with partial traverse

Group election – with traverse: In response to the Group Restriction Requirement, Applicants elect Group III, drawn to, inter alia, a protease polypeptide and use thereof to make a composition, and encompassing Claim 98, in part, and Claims 60, 175, 180, 185, 190, 196, 198, 202, 204, 212, 213, 218, 219, 220, 221, and 222.

Rejoining process claims under In re Ochiai

Applicants respectfully request that after the elected product claims of Group III have been found to be allowable, all withdraw process (methods) claims which depend from or otherwise include all of the limitations of the allowed product claims should be rejoined. MPEP §821.04, §821.04(a), §821.04(b); **In re Ochiai**, 37 USPQ2d 1127 (Fed. Cir. 1995); **In re Brouwer**, 37 USPQ2d 1663 (Fed. Cir. 1995); 1184 OG 86, 3/26/96.

Sequence election for biological sequences: In response to the Species Group Restriction Requirement, as discussed on page 3 of the OA, Applicants elect the genus of polypeptides based on the exemplary SEQ ID NO: 42.

Reasons to Reconsider & Withdraw Restriction Requirement

Applicants respectfully request the Patent Office reconsider and withdraw the restriction requirement for the following reasons:

Applicants respectfully request the Patent Office rejoin all claims pending after entry of the instant amendment, including claims from Groups I –II and IV-XI for the following reasons:

The Office alleged that due to the breadth of the pending claims (in particular, the breadth of the claimed genus of biological sequences), in light of Tsujibo et al., the pending claims lack a novel inventive concept (see, e.g., page 3 of the OA).

The instant amendment addresses this issue; after entry of this amendment, all pending claims will share a novel inventive concept, where the novel inventive concept is based on the genus of polypeptides based on the exemplary SEQ ID NO: 42, encoded by the genus of polypeptides based on the exemplary SEQ ID NO: 41.

This application is a §371 national phase application and restriction is evaluated under:

*PCT RULE 13
Unity of Invention*

*PCT RULE 13.1.
Requirement*

The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention").

PCT RULE 13.2.

Circumstances in Which the Requirement of Unity of Invention Is To Be Considered Fulfilled
Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Further direction is provided in MPEP 1893.03(d) (MPEP Eighth Ed, Rev. 6, September 2007):

1893.03(d) Unity of Invention [R-6]

A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. For

example, a corresponding technical feature is exemplified by a key defined by certain claimed structural characteristics which correspond to the claimed features of a lock to be used with the claimed key.

Applicants respectfully aver that after entry of this amendment, all pending claims in this application satisfy PCT Rule 13.2 in that they will share the novel inventive concept based on the genus of polypeptides based on the exemplary SEQ ID NO: 42, encoded by the genus of polynucleotides based on the exemplary SEQ ID NO: 41.

CONCLUSION

Applicants respectfully submit after entry of this amendment, all pending claims in this application satisfy PCT Rule 13.2 in that they will share the novel inventive concept based on the genus of polypeptides based on the exemplary SEQ ID NO: 42, encoded by the genus of polynucleotides based on the exemplary SEQ ID NO: 41.

It is believed that all claims pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Applicants believe that no additional fees are necessitated by the present response and amendment. However, in the event any such fees are due, the Commissioner is hereby authorized to charge any such fees to **Deposit Account No. 50-0661**, referencing docket number **D1160N**. However, the Commissioner is not authorized to charge the cost of the issue fee to this deposit account. Please credit any overpayment to this account.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (858)526-0376.

Respectfully submitted,

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